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Amendment After Final
Attorney Docket No. S63.2N-13333-US01

Remarks

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This Amendment After Final is in response to the Final Office Action dated July 5, 2006.

As a preliminary matter, Applicants note with appreciation the Examiner's withdrawal of the MacGregor reference as previously applied.

In the Office Action, claims 54 and 57 were rejected under 35 U.S.C. § 102(b) as being anticipated by WIPO Publication Number WO 92/06734 to Song ("Song"). Also, claim 58 was rejected under 35 U.S.C. § 103(a) as being unpatentable over Song in view of U.S. Patent 5,639,278 to Dereume ("Dereume").

Also, the Office Action stated that claims 55, 56, and 59 – 61 were withdrawn from consideration as being drawn to a nonelected species.

Restriction Requirement

Applicants admittedly are confused with regards to the statement that claim 61 was withdrawn from consideration based on an election made on August 13, 2004, pursuant to the Restriction Requirement of July 13, 2004. In the Restriction Requirement of July 13, 2004, the Examiner advised Applicants to select a single disclosed species from each of the two groups of species presented. In the August 13, 2004 Response to Restriction Requirement, Applicants elected Species A, embodied in claim 61, from the group referred to in the Restriction Requirement as "Tubular axis of prosthesis," and Species A, embodied in claims 54 and 57, from the group referred to in the Restriction Requirement as "Tubular prosthesis." Thus, Applicants elected to prosecute in the instant application claims 54, 57, 58, and 61.

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However, the current Office Action stated that claims 55, 56, and 59 – 61 were withdrawn from consideration as being drawn to a nonelected species. Applicants believe this to be erroneous. Instead, Applicants believe that claims 54 – 61 are pending in the application, with claims 55, 56, and 59 – 60 withdrawn from consideration. The pending claims presented above reflect this status. Should the Examiner disagree, the Applicants would appreciate a telephone call to their representative at the number listed below for clarification.

Claim Rejections—35 U.S.C. § 102(b)

Claims 54 and 57 stand rejected as being anticipated by Song.

Claim 54

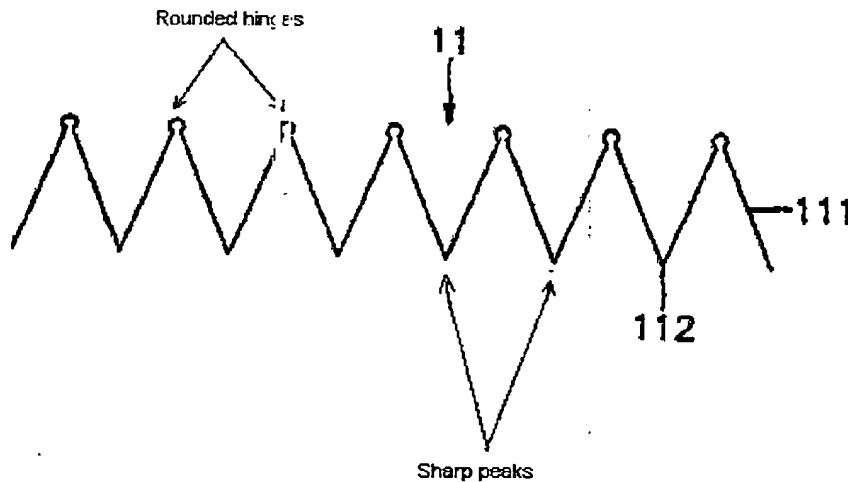
Regarding the Song reference, the Office Action refers to FIGs. 1 – 3 and 6 and states that those figures show a corrugated pattern, as claimed in instant claim 54. Applicants respectfully disagree.

The specification of Song describes structure 11 of Song's FIG. 1 as being a closed zig-zag configuration. And, marked-up FIG. 1 shows structure 11 as having sharp peaks, as shown in below:

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FIG. 1



Instant claim 54 requires “one or more corrugated portions”. The “corrugated portion” of instant claim 54 refers to the part of the wire that “follows a sinuous path...”, as described in the specification on page 23, lines 18 – 20. In order to be sinuous, the path must have a “wavy form”. [<http://www.terriam-webster.com>]. Furthermore, a “wavy” form requires that the path be “curving alternately in opposite directions”. [<http://www.dictionary.com>].

It is clear from looking at FIG. 1 of Song that structure 11 does not follow a sinuous path. That is, the path of the wire is not a wavy form because it does not curve alternately in opposite directions. One of ordinary skill in the art would not view a path that includes sharp points at the trough regions as having a wavy form because these sharp points do not curve.

Furthermore, one of ordinary skill in the art would not consider structure 11 to have a wavy (or corrugated) form because of the “rounded hinges” [Applicants’ term] shown

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above in marked-up FIG. 1 of Song. In other words, a person skilled in the art would not consider a zig-zag structure with "rounded hinges" only on peaks (or troughs) as having a wavy or corrugated form.

Because the structure of Song is not corrugated, Song fails to disclose a required element of instant claim 54. In order for a claim to be anticipated, each and every element must be found in a single prior art reference. Verdegaal Bros. v. Union Oil Co. of California, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987). Therefore, instant claim 54 is not anticipated by Song and withdrawal of the Song reference is respectfully requested.

Claim 57

Claim 57, like claim 54, requires hoop-like tubular portions that are formed from corrugated portions. As argued above, the required feature of corrugated portions is not found in the Song reference. Therefore, instant claim 57 is not anticipated by Song and withdrawal of the Song reference is respectfully requested.

Claim Rejections—35 U.S.C. § 103(a)

In the Office Action, claim 58 was rejected as being unpatentable over Song in view of Dereume. It is argued in the Office Action that it would have been obvious to a person having ordinary skill in the art at the time the invention was made to have combined the teaching of a forked prosthesis comprising a generally tubular main branch and at least two secondary branches extending from the main branch, as in Dereume, with the tubular prosthesis of Song, in order to treat a condition at a bifurcation. Applicants respectfully disagree.

As presented in Applicants' foregoing arguments, Song fails to disclose the

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required feature of "corrugate portions". The addition of the forked prosthesis of Dereume with a generally tubular main branch and at least two secondary branches extending from the main branch does nothing to address the failure of Song to teach or suggest the required element of corrugated portions. For at least this reason, the rejection is traversed, and Applicants request removal of both the Song and Dereume references.

Conclusion

For the foregoing reasons, Applicants believe the application, with claims 54, 57, 58, and 61, is in condition for allowance. A Notice of Allowance is respectfully requested.


Should the Examiner believe that anything further would be desirable to put the application in better form for allowance, the Examiner is invited to contact the Applicants' undersigned representative at the telephone number listed below.

Respectfully submitted,

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Date: September 5, 2006

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